

A regular meeting of the Board of Aldermen was held Tuesday, January 13, 2009, at 7:45 p.m. in the Aldermanic Chamber.

President Steven A. Bolton presided; City Clerk Paul R. Bergeron recorded.

Prayer was offered by City Clerk Paul R. Bergeron; Alderman Richard L. LaRose led in the Pledge to the Flag.

The roll call was taken with 15 members of the Board of Aldermen present.

Her Honor Mayor Donnalee Lozeau and Corporation Counsel James M. McNamee were also in attendance.

#### REMARKS BY THE MAYOR

Thank you Mr. President and members of the board. Tonight I have no comments with regard to your agenda, but I would take a moment to thank the members of the board, city staff, and in particular my senior management team for making my first year such a remarkable one. I look forward to sharing my State of the City with all of you next month.

Last January, in my very first remarks to the board, one of the items I spoke to was my interest in working with the board on strategic planning. I also expressed my belief that a strategic plan laid a strong foundation for a sound budget. I still believe that. When I thought about how we might approach this, I thought first about how I wouldn't approach it. By that I mean, it is easy to undertake this task in a simplistic and traditional way, which may not produce results that we all feel would have the best impact, but would easily allow us to check that item off the to do list and move on.

Instead, I wanted to find a different, more meaningful approach that would give us all the chance to see Nashua in a way we may not have looked at before, a way that might give us a more comprehensive opportunity to come away feeling like we made decisions based on the most current data.

Over the past several months, as I have had the opportunity to tell some of you, my cabinet and I have examined the city by quadrants. As a result, we are compiling information that will provide a foundation by which we can collectively discuss the direction we, as policy makers, would like the city to go. It is my plan to present this information and have a strategic planning discussion with you all in February. I am looking forward to sharing this interesting look at our community and jump starting the establishment of collective goals, which can make up the future road map for our city. As always, thank you for your kind attention.

RESPONSE TO REMARKS OF THE MAYOR – None

RECOGNITION PERIOD – None

READING MINUTES OF PREVIOUS MEETING

**MOTION BY ALDERMAN MCCARTHY THAT THE MINUTES OF THE BOARD OF ALDERMEN MEETING OF DECEMBER 23, 2008, BE ACCEPTED, PLACED ON FILE AND THE READING SUSPENDED**  
**MOTION CARRIED**

COMMUNICATIONS

**MOTION BY ALDERMAN TEEBOOM THAT ALL COMMUNICATIONS BE READ BY TITLE ONLY**

**MOTION CARRIED**

From: Fred S. Teeboom, Alderman-at-Large

Re: O-08-41, Assigning Responsibility for Roads to the Infrastructure Committee  
and Creating a Broad Street Parkway Liaison One-Member Committee

**MOTION BY ALDERMAN TEEBOOM TO ACCEPT AND PLACE ON FILE**

**MOTION CARRIED**

PERIOD FOR PUBLIC COMMENT RELATIVE TO ITEMS EXPECTED TO BE ACTED UPON THIS EVENING - None

PETITIONS – None

NOMINATIONS, APPOINTMENTS AND ELECTIONS – None

REPORTS OF COMMITTEE

Finance Committee..... 12/17/08

There being no objection, President Bolton declared the report of the December 17, 2008 Finance Committee accepted and placed on file.

Finance Committee..... 01/07/09

There being no objection, President Bolton declared the report of the January 7, 2009 Finance Committee accepted and placed on file.

Human Affairs Committee..... 12/15/08

There being no objection, President Bolton declared the report of the December 15, 2008 Human Affairs Committee accepted and placed on file.

Planning & Economic Development Committee..... 12/16/08

There being no objection, President Bolton declared the report of the December 16, 2008 Planning & Economic Development Committee accepted and placed on file.

CONFIRMATION OF MAYOR'S APPOINTMENTS – None

UNFINISHED BUSINESS – RESOLUTIONS

**R-08-149**

Endorsers: Alderman-at-Large Brian S. McCarthy  
Alderman Michael J. Tabacsko

**AUTHORIZING THE EXCHANGE OF A PORTION OF A PARCEL ON RIVERSIDE STREET (LOT E-1359), APPROXIMATELY 1.25 ACRES, FOR A PORTION OF A PARCEL AT 583 WEST HOLLIS STREET (LOT E-1358), APPROXIMATELY .58 ACRES, OWNED BY BELMAR/PAG LIMITED PARTNERSHIP, OTHERWISE KNOWN AS PRATT HOMES; AND AUTHORIZING THE MAYOR TO NEGOTIATE A LEASE AGREEMENT WITH THE YMCA FOR A PORTION OF THE PARCEL ON RIVERSIDE STREET (LOT E-1359)**

Given its second reading;

**MOTION BY ALDERMAN MCCARTHY TO TABLE R-08-149 AT THE FULL BOARD PENDING A RECOMMENDATION FROM THE COMMITTEE ON INFRASTRUCTURE**

ON THE QUESTION

President Bolton

My understanding is it is on the Infrastructure Committee's agenda for tomorrow evening.

**MOTION CARRIED**

UNFINISHED BUSINESS – ORDINANCES

**MOTION BY ALDERMAN TEEBOOM TO TAKE FROM THE TABLE O-08-41  
MOTION CARRIED**

**O-08-41**

Endorser: Alderman-at-Large Fred S. Teeboom  
**ASSIGNING RESPONSIBILITY FOR ROADS TO THE INFRASTRUCTURE  
COMMITTEE AND CREATING A BROAD STREET PARKWAY LIAISON  
ONE-MEMBER COMMITTEE**

Given its third reading;

**MOTION BY ALDERMAN TEEBOOM TO AMEND O-08-41 IN ITS ENTIRETY BY REPLACING IT WITH THE GOLDEN ROD COPY PROVIDED WITH THE AGENDA  
MOTION CARRIED**

**MOTION BY ALDERMAN CLEMONS TO FURTHER AMEND O-08-41 BY REPLACING THE GOLDEN ROD COPY IN ITS ENTIRETY WITH THE BLUE COPY PLACED ON OUR DESKS THIS EVENING**

ON THE QUESTION

Alderman Teeboom

I was kind of surprised to see this blue copy appear. There had been no prior notice and no prior discussion.

President Bolton

That is untrue Alderman Teeboom. I had sent e-mail communication some months ago to all members of the Board on this very subject. Please continue.

Alderman Teeboom

I was unaware that it was the same item. Anyway, let me continue. If you look at your agenda you notice that it took two committees and the Board of Public Works to review the legislation, and all finally agreed. It took a while. You may have noticed that the O-08-41 was tabled for a number of Aldermanic meetings. It took a while because it takes a while to get a board and two committees to coordinate together when one of the committees has a change because you have to go back and make the amendment and then go back to the original committee and another committee may have passed it. Anyway, finally the Board of Public Works after extensive discussion, agreed with the changes in the amendment, and that came back before us.

That is the golden rod copy you saw earlier that was approved for amendment. Now the difference between the blue copy – the blue copy actually representing an early version of this legislation. The essential difference between the blue copy and the golden rod copy is Item J in the blue copy, which needs to be compared with Item E in the golden rod copy. Item E in the golden rod copy came through the attorney's office, and I guess it was introduced by Alderman Plamondon, who will have to address how we got to that, but it was introduced in the Infrastructure Committee – I think it was Infrastructure by Alderman Plamondon.

The difference between the language in one versus the other essentially is that the golden rod copy determines the position of the Broad Street Parkway liaison position is determined by the committee itself. A five member committee determines who should be the committee liaison member and that liaison member is brought forth to the full board for approval. That is exactly what happened earlier this term when the committee appointed me, a portion of the members, and the full board approved me and I acted in this position. I gladly step down at this point and let somebody else do it.

The blue copy places the appointment under the President of the Board. Now I argued after it originally introduced it to be appointed by the President of the Board – it was the President of the board that raised the issue now that I think about it, President Bolton raised an issue about this appointment. In committee, one of the many committee meetings that this was discussed, we decided in that committee to make the appointment within the committee.

Personally, and as you know I find that the appointments on the committees by the President have been politicized. I am not necessarily saying that President Bolton started that – it might have been started before him, but these positions are being politicized. Not everyone that asked for an appointment to a committee gets the committee or gets any committee that he asked for, and I am an example of that. I don't think I got appointed to any committee I asked for. I was taken off some committees I really felt strong about.

This position reports back to the Aldermanic Committee on Infrastructure, the Broad Street Parkway position. It doesn't go to some other board. It is a one member. It doesn't go to the Capital Improvements Committee. It doesn't go to the Planning Board or the Zoning Board. It reports back to the Aldermanic committee. Therefore, I think the Aldermanic Committee on Infrastructure has a strong interest in making sure the right member that they feel can be appointed. Like I said, whoever is appointed by the committee has to be confirmed by the full Board. That is what the legislation says.

I think the amendment represented in the golden rod copy that all the committees have agreed to, is the proper representation, and I would ask that the blue copy that you found on your desk and not on your agenda be rejected, the current amendment be rejected. Thank you.

Alderman McCarthy

I will support the amendment that is in front of us. When we first envisioned having a Broad Street Parkway liaison and Alderman Dion had asked me during an Infrastructure Committee meeting to do that, you will recall that was originally accomplished by my sending a memo to the Board, which was accepted during a full Board meeting. Frankly, I think this ought to be done the way we have others, and I would point out that simply in the blue copy the item we are adding to the one-member committee section is Item J, which leads me to believe that there are at least nine other one-member committees who are all appointed by the President of the Board and confirmed by the Board, and I don't see why this needs to be done differently.

We have, for example, a liaison to the Planning Board who must be a member of the Planning & Economic Development Committee, but is in fact chosen by the President of the Board of Aldermen. I just don't see any reason to do it differently. I don't, on the other hand, see any reason why the current assignment to this position should be changed, and I don't envision that they will be if we make this official. I believe that we ought to make this just like every other one-member committee that we already have so I will support the blue copy amendment.

Alderman Plamondon

We had quite a bit of discussion of this in committee. First I want to ask for clarification. The motion before us is to amend with the blue copy, which is adding paragraph J, but there was no mention of removing paragraph E as they both seem to be duplications and conflicting. Am I to assume that...

President Bolton

If the amendment passes, the blue copy does not add any paragraph E so there will be no paragraph E as is in the golden rod copy.

Alderman Plamondon

Which is what I thought, but I wanted to be clear on that point. Now in the many discussions we had in committee and my conversations with Corporation Counsel because I kind of anticipated this debate, it was my understanding that both pieces of legislation basically have the same effect. They do the same thing and they are both proper. The blue copy may be more in compliance with the verbiage of the paragraph that we are discussing in Chapter 5. If I might, through you Mr. President, just pose a question to Corporation Counsel on any opinions on this or which paragraph would make more sense in the NROs be it J, which is before us now, or E, which we already approved?

James McNamee, Esq.

The question is whether or not this would be better placed under paragraph ..

President Bolton

I guess the question is is there any legal infirmity with either choice.

James McNamee, Esq.

What is the other section?

Alderman Plamondon

The other is paragraph E under Section 1. Paragraph J adds under paragraph 4.

James McNamee, Esq.

If I understand it correctly, the golden rod amendment preserves the original language, but puts in a new section, which has the infrastructure Committee electing one of its members as a Broad Street Parkway liaison committee, and the blue copy that was put on the desks tonight places that section back in the section where it originally was, but re-words it I think appropriately for that section as being simply an appointment that would be made by the President of the Board.

President Bolton

Subject to confirmation...

James McNamee, Esq.

Subject to confirmation. There is no legal infirmity with either way of doing it.

Alderman Plamondon

Thus both pieces of legislation do the same thing, they are in the same paragraph under 5-9, same intent, it is just a matter of where they are placed under each one. One is chosen by committee, one is chosen by the board, and both have confirmation by the full board. It is, in many ways, semantics. I will listen for more debate. I am not quite sure which way I am going to vote myself.

Alderman Chasse

I have been reading it and reading it, and can't understand exactly what it means. Broad Street Parkway Liaison committee, who shall be a member of the Infrastructure Committee. I don't understand. It has no explanation whatsoever. If I am reading that correctly, the whole committee is part of the Infrastructure Committee.

President Bolton

Alderman Chasse I think in many ways it is made difficult because you don't have the entire text of the existing ordinance in front of you, but the introductory language is up above in 5-9(b) where it say the President shall appoint Aldermen as called for.... And then it talks about 5 member committees and 5 member committees, and then it gets down into section 4 – one-member committee, and then it lists all the different one-member committees. This will be the tenth so called one-member committee, and this format is consistent with the way all of the other ones are listed out. As I say, if you had the whole thing in front of you it might be easier to interpret.

As has been explained by many of the previous speakers, the debate is really over whether this liaison committee is appointed the same way that the other 9 are or it is done differently by having the members of the Infrastructure Committee make an election. I think that is as simple as I can put it.

Alderman Tabacsko

I will support the amendment of the blue copy because I like the consistency of keeping it the same with all of the other 9 one-member committees. Thank you.

Alderman Deane

I won't be supporting the amendment. I think we have committee meetings for a reason. For those that were that concerned about the language and/or the process pertaining to the amendments that were made to O-08-41, you should have come to the committee and discussed it. Nobody showed up. I do agree with Alderman Teeboom in this case. I think this is being politicized. When Alderman McCarthy left the Infrastructure Committee at the end of the last term we didn't have to go through an appointment process to the liaison to the Broad Street Parkway. That was done within committee. There was no memo sent out, and no body said anything. Basically the precedent had been set.

In this case, when the project is completed, this position dissolves anyway because it no longer has a purpose. The other appointments that are made by the Board President have been going on and on and on as long as they have been set. They don't really have a deadline of when they will cease unless of course the function that they perform ceases. This has a deadline. When the project is complete that is the end of it. Thank you.

Alderman Flynn

Thank you Mr. President. Could I ask a question of council?

President Bolton

Yes.

Alderman Flynn

At the end of all of our ordinances, or it is very common at the end of an ordinance to have this last statement that this ordinance shall take effect following its passage. I am inquiring I guess if we were to adopt this ordinance as the blue copy what would be the possibilities I guess, what would be the possible paths that might be taken as we, at this point, say that this position should be, as it is added to the ordinance, it should be something that is appointed by the President? What would be the possible paths to either re-assigning the position or for the balance of this term what circumstances might be invoked by this?

James McNamee, Esq.

I think it actually would be fairly simple. Of course, there is the seven day period for the Mayor to sign as well, but assuming that takes place, as soon as the next meeting of the Board of Aldermen, the President could make an appointment to the committee for the full Board to confirm.

Alderman Flynn

He would not necessarily have to do that, but he would have the option of doing that?

James McNamee, Esq.

That is correct.

Alderman Flynn

Thank you.

Alderman McCarthy

At the risk of disagreeing with Corporation Counsel, I believe this is one of those ordinances that only covers procedural matters of the Board, and is not subject to veto under the terms of the Charter.

James McNamee, Esq.

You may be correct. I will take a look at that, but it would be ...

Alderman McCarthy

Which would imply we could actually dispense with the matter this evening were this to pass correct?

James McNamee, Esq.

If you are correct on that then it could take place tonight, but if you are not then it would take 7 days for the Mayor to sign it.

President Bolton

Is there any further discussion? The motion is to amend by substituting the blue copy. A yes vote accomplishes that.

*A Viva Voce Roll Call was requested, which resulted as follows:*

Yea: Alderman McCarthy, Alderman Wilshire, Alderman Clemons, Alderman LaRose,  
Alderman Tamposi, Alderman Cox, Alderman Tabacsko, Alderman Bolton

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Nay: Alderman Chasse, Alderman Deane, Alderman MacLaughlin, Alderman Cookson,  
Alderman Teeboom, Alderman Flynn, Alderman Plamondon

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**MOTION CARRIED**

**MOTION BY ALDERMAN CLEMONS FOR FINAL PASSAGE OF O-08-41 AS AMENDED**

**MOTION CARRIED**

***Division Taken***

Ordinance O-08-41 declared duly adopted as amended.

NEW BUSINESS – RESOLUTIONS

**R-09-151**

Endorsers: Mayor Donnalee Lozeau  
Alderman-at-Large Fred S. Teeboom

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF PAST AND FUTURE  
LEASE PAYMENTS FOR PROPERTIES ACQUIRED FOR THE BROAD STREET  
PARKWAY PROJECT**

Given its first reading; assigned to the BUDGET REVIEW COMMITTEE by President Bolton



**R-09-152**

Endorser: Mayor Donnalee Lozeau

**APPROVING A MUNICIPAL SOFTWARE AGREEMENT WITH AVITAR ASSOCIATES OF NEW ENGLAND, INC.**

Given its first reading; assigned to the PLANNING & ECONOMIC DEVELOPMENT COMMITTEE by President Bolton

**R-09-153**

Endorser: Alderman Michael A. Tamposi

**AUTHORIZING THE CONVEYANCE OF A DISCONTINUED PORTION OF EDSON STREET TO STEPHEN J. BONNETTE AND JOAN E. BONNETTE AND MARY J. DALY, TRUSTEE, MARY J. DALY REVOCABLE TRUST**

Given its first reading; assigned to the COMMITTEE ON INFRASTRUCTURE by President Bolton

NEW BUSINESS – ORDINANCES – None

PERIOD FOR GENERAL PUBLIC COMMENT - None

REMARKS BY THE MEMBERS OF THE BOARD OF ALDERMEN

Alderman Plamondon

Spoke of the presentation given on the gang elements in the city. Cited this as a serious problem. Spoke of the recruiting efforts taking place. Touched on the need for additional parental education. Believes there is a need for a dedicated gang element within our Police Department.

Alderman Flynn

Expressed his excitement that his oldest Son, Sean Flynn, and his Wife, Monique, are expecting a baby in the June timeframe.

Stated the city has a Veterans and a Veteran's Widow Tax Credit program. Explained when you apply for a Veteran's tax credit it is a permanent application, but it is a permanent application only as long as you stay in the house that you are living in. If you were to move from one street to another, they can't possibly know you are the same John Doe. It does state on the application (Form DD214) that you need to notify them of when you change residence.

Alderman Teeboom

Noted, as a point of history, the next time the Board meets there will be a new administration in the federal government. Stated what disappears from the scene is the Bush administration. Stated his opinion the Bush administration is the worst in the history of this country.

Alderman Cookson

Expressed his condolences, thoughts, and prayers to the family of Curtis Drury who passed away on New Years Day.

Stated he will be conducting his next quarterly Ward meeting on Wednesday, February 4<sup>th</sup> at 7:00 p.m. at Nashua High School North.

Alderman Clemons

Stated he could not agree more with Alderman Teeboom.

Alderman Deane

Thanked the Department of Public Works for a job well done during the storm. Stated the city does have a problem, in his eyes, in that we are in desperate need of 1 if not 2 more sidewalks plows. Spoke of the need for the sidewalks leading to schools to be cleared. Stated he intends to introduce a request, through CDBG, for the purchase of a sidewalk plow.

Alderman MacLaughlin

Stated Director Pollock informed him that the city owns 4 pieces of apparatus, and the School Department has 1. Three of the city's four are down for repair and waiting on parts. Stated when the equipment is down we have to understand we have to be patient, and when that is not possible, if it is possible, we should try to help shovel where we can in front of our own homes.

Alderman Plamondon

Stated, as of 4:30 p.m., we are down to 1 sidewalk plow. We have either 6-7 trucks off the road as well.

Alderman McCarthy

Congratulated Mr. & Mrs. Gleason on the opening of the new Nature of Things School on the corner of Main Dunstable and Gregg Roads.

Mentioned he has brought to the attention of the Public Works Director the old time odors from the landfill, which appear to be back at the moment. Stated the Director is having it looked into.

Committee Announcements

Alderman Plamondon

The Committee on Infrastructure will meet tomorrow night at 7:00 p.m. in these Chambers.

Alderman Wilshire

The Human Affairs Committee has two public hearings on Thursday, January 15<sup>th</sup> at 7:00 p.m. in the Aldermanic Chamber.

Alderman McCarthy

I noticed that when we amended the duties of the Infrastructure Committee we deleted streetlights, which I thought as recently as a couple of meetings ago the Infrastructure Committee was still dealing with issues to that regard. Was that a mistake or is that our intended policy?

President Bolton

That was the way it got introduced and the way it followed through the entire process.

Alderman Deane

No that is not a mistake. What was discussed at committee level was the fact that we felt as though other than requests, the billing should be done administratively because we are sitting here in a room approving invoices for something where what are we going to do drive out and see if they really replaced the cobra heads or the bulbs – so we kind of left that up to the administration to take care of.

Alderman McCarthy

Thank you.

NON-PUBLIC SESSION

**MOTION BY ALDERMAN MCCARTHY THAT THE BOARD OF ALDERMEN GO INTO NON-PUBLIC SESSION BY ROLL CALL PURSUANT TO RSA 91-A:3,II(e) TO CONSIDER A PENDING CLAIM OR LITIGATION WHICH HAS BEEN THREATENED IN WRITING OR FILED AGAINST THE CITY**

**MOTION SECONDED BY ALDERMAN LAROSE**

*A Viva Voce Roll Call was taken, which resulted as follows:*

Yea: Alderman McCarthy, Alderman Chasse, Alderman Deane, Alderman MacLaughlin, Alderman Wilshire, Alderman Clemons, Alderman LaRose, Alderman Tamposi, Alderman Cookson, Alderman Cox, Alderman Tabacsko, Alderman Teeboom, Alderman Flynn, Alderman Plamondon, Alderman Bolton

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Nay:

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**MOTION CARRIED**

*The Board of Aldermen went into non-public session at 8:30 p.m. The Board of Aldermen sealed the minutes of the non-public session and returned to the regular meeting of the Board of Aldermen at 9:02 p.m.*

ADJOURNMENT

**MOTION BY ALDERMAN MCCARTHY THAT THE JANUARY 13, 2009 MEETING OF THE BOARD OF ALDERMEN BE ADJOURNED**  
**MOTION CARRIED**

The meeting was declared adjourned at 9:03 p.m.

Attest:

Paul R. Bergeron, City Clerk